

## Department of the Navy, DoD

## § 720.9

Staff Judge Advocate to the Commandant (CMC (JAR)) shall be advised of all matters referred to the Judge Advocate General. Counsel to the Commandant shall be advised of matters referred to the Office of General Counsel.

### **§ 720.6 Agreement required prior to delivery to State authorities.**

(a) *Delivery under Article 14, UCMJ.* When delivery of any member of the Navy or Marine Corps to the civilian authorities of a State is authorized, the member's commanding officer shall, before making such delivery, obtain from the Governor or other duly authorized officer of such State a written agreement. The State official completing the agreement must show that he is authorized to bind the State to the terms of the agreement. When indicating in the agreement the naval or Marine Corps activity to which the member delivered is to be returned by the State, care should be taken to designate the closest appropriate activity (to the command to which the member is attached) that possesses special court-martial jurisdiction. The Department of the Navy considers this agreement substantially complied with when:

(1) The member is furnished transportation (under escort in cases of delivery in accordance with § 720.12) to a naval or Marine Corps activity as set forth in the agreement;

(2) The member is provided cash to cover incidental expenses en route thereto; and

(3) The Department of the Navy is so informed.

As soon as practicable, a copy of the delivery agreement shall be forwarded to the Judge Advocate General.

(b) *Delivery under Interstate Agreement on Detainers Act.* Special forms are used when delivering prisoners under the Interstate Agreement on Detainers Act. The Act is infrequently used and most requests are pursuant to Article 14, UCMJ. See § 720.12 for a detailed discussion of the Detainers Act.

### **§ 720.7 Delivery of persons to Federal authorities.**

(a) *Authority to deliver.* When Federal law enforcement authorities display proper credentials and Federal war-

rants for the arrest of members, civilian employees, civilian contractors and their employees, or dependents residing at or located on a Department of the Navy installation, commanding officers are authorized to and should allow the arrest of the individual sought. The exceptions in § 720.9 may be applied to members. A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected.

(b) *Agreement not required of Federal authorities.* The agreement described in § 720.6 is not a condition to the delivery of members to Federal law enforcement authorities. Regardless of whether the member is convicted or acquitted, after final disposition of the case, the member will be returned to the Naval Service (provided that naval authorities desire his return) and the necessary expenses will be paid from an appropriation under the control of the Department of Justice.

### **§ 720.8 Delivery of persons to foreign authorities.**

Except when provided by agreement between the United States and the foreign government concerned, commanding officers are not authorized to deliver members or civilian employees of the Department of the Navy, or their dependents residing at or located on a naval or Marine Corps installation, to foreign authorities. When a request for delivery of these persons is received in a country with which the United States has no agreement or when the commanding officer is in doubt, advice should be sought from the Judge Advocate General. Detailed information concerning the delivery of members, civilian employees, and dependents to foreign authorities when a status of forces agreement is in effect is contained in DoD Directive 5525.1 of 9 April 1985 and SECNAVINST 5820.4F.<sup>2</sup>

### **§ 720.9 Circumstances in which delivery is refused.**

(a) *Disciplinary proceedings pending.* When disciplinary proceedings involving military offenses are pending, commanding officers should obtain legal guidance from a judge advocate of the Navy or Marine Corps prior to delivery

<sup>2</sup>See footnote 1 of § 720.5(b).